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In the Supreme Court of the United States

October Term, 1957

WILLIAM L. BABB, PETITIONER

v.

UNITED STATES OF AMERICA

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

---

BRIEF FOR THE UNITED STATES IN OPPOSITION

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INDEX

	Page
Opinion below	1
Jurisdiction	1
Questions presented	2
Statutes and regulations involved	2
Statement	10
Argument	14
Conclusion	21

CITATIONS

Cases:

Babb v. *United States*, 218 F. 2d 538	11
Caha v. *United States*, 152 U.S. 211	16
Goldberg v. *United States*, 277 Fed. 211	14
Hargrove v. *United States*, 67 F. 2d 820	20
Keck v. *United States*, 172 U.S. 434	15
United States v. *Eaton*, 144 U.S. 677	15
United States v. *Howard*, 352 U.S. 212	16
United States v. *Hvass*, 355 U.S. 570	16
Yarborough v. *United States*, 230 F. 2d 56	20

Statutes and regulations:

Act of August 2, 1886, 24 Stat. 209	15
Sec. 5	15
Sec. 18	15
18 U.S.C. 545, 62 Stat. 716	2, 10, 14, 15
19 U.S.C. 1459, 46 Stat. 717, 52 Stat. 1082	3, 10, 11, 18
1483, 46 Stat. 721	4, 16
1484, 46 Stat. 722, 52 Stat. 1083	4, 11, 14, 15, 17, 18, 20
19 C.F.R., Sec. 8.3	10, 18
Sec. 8.6(b)	10, 17

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OPINION BELOW

The opinion of the Court of Appeals (R. 602-616; Pet. App. 29-45) is reported at 252 F. 2d 702.

JURISDICTION

The judgment of the Court of Appeals was entered on February 25, 1958 (R. 617; Pet. App. 45). A petition for rehearing (R. 618-622) was denied on March 27, 1958 (R. 625; Pet. App. 46). The petition for a writ of certiorari was filed on April 19, 1958. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

QUESTIONS PRESENTED

1. Whether failure of a consignee of imported cattle to make a customs entry and submit an invoice in accordance with 19 U.S.C. 1484 is "contrary to law" within the meaning of 18 U.S.C. 545.

2. Whether the court erred in its charge defining a "consignee" required to make a customs entry.

3. Whether 19 U.S.C. 1484 requiring a customs entry for imported merchandise applies only to importations by "vessel" or "vehicle."

4. Whether the court's charge sufficiently covered petitioner's knowledge of his statutory duty to make a customs entry.

STATUTES AND REGULATIONS INVOLVED

During the months in 1953 when the cattle were imported, the pertinent statutes and regulations provided:

18 U.S.C. (1952 Ed.) 545, 62 Stat. 716:

Smuggling goods into the United States

Whoever knowingly and willfully, with intent to defraud the United States, smuggles, or clandestinely introduces into the United States any merchandise which should have been invoiced, or makes out or passes, or attempts to pass, through the customhouse any false, forged, or fraudulent invoice, or other document or paper; or

Whoever fraudulently or knowingly imports or brings into the United States, any merchandise contrary to law, or receives, conceals, buys, sells, or in any manner facilitates the transpor-

tation, concealment, or sale of such merchandise after importation, knowing the same to have been imported or brought into the United States contrary to law—

Shall be fined not more than $5,000 or imprisoned not more than two years, or both.

Proof of defendant's possession of such goods, unless explained to the satisfaction of the jury, shall be deemed evidence sufficient to authorize conviction for violation of this section.

Merchandise introduced into the United States in violation of this section shall be forfeited to the United States.

* * * *

19 U.S.C. (1952 Ed.) 1459, 46 Stat. 717, 52 Stat. 1082:

CONTIGUOUS COUNTRIES—REPORT AND MANIFEST.

The master of any vessel of less than five net tons carrying merchandise and the person in charge of any vehicle arriving in the United States from contiguous country, shall immediately report his arrival to the customs officer at the port of entry or customhouse which shall be nearest to the place at which such vessel or vehicle shall cross the boundary line or shall enter the territorial waters of the United States, and if such vessel or vehicle have on board any merchandise, shall produce to such customs officer a manifest as required by law, and no such vessel or vehicle shall proceed farther inland nor shall discharge or land any merchandise, passengers, or baggage without receiving a permit therefor from such customs officer. Any person importing or bringing merchandise into the United States from a contiguous country otherwise than in a vessel or vehicle shall imme-

diately report his arrival to the customs officer at the port of entry or customhouse which shall be nearest to the place at which he shall cross the boundary line and shall present such merchandise to such customs officer for inspection.

19 U.S.C. (1952 Ed.) 1483, 46 Stat. 721:

CONSIGNEE AS OWNER OF MERCHANDISE.

For the purposes of this title—

(1) All merchandise imported into the United States shall be held to be the property of the person to whom the same is consigned; and the holder of a bill of lading duly indorsed by the consignee therein named, or, if consigned to order, by the consignor, shall be deemed the consignee thereof. The underwriters of abandoned merchandise and the salvors of merchandise saved from a wreck at sea or on or along a coast of the United States may be regarded as the consignees.

(2) A person making entry of merchandise under the provisions of subdivision (h) or (i) of section 484 (relating to entry on carrier's certificate and on duplicate bill of lading, respectively) shall be deemed the sole consignee thereof.

19 U.S.C. (1952 Ed.) 1484, 46 Stat. 722, 52 Stat. 1083:

ENTRY OF MERCHANDISE.—(a) REQUIREMENT AND TIME.

Except as provided in sections 490, 498, 552, and 553 and in subdivision (j) of section 336 of this Act, and in subdivisions (h) and

(i) of this section, the consignee of imported merchandise shall make entry therefor either in person or by an agent authorized by him in writing under such regulations as the Secretary of the Treasury may prescribe. Such entry shall be made at the customhouse within forty-eight hours, exclusive of Sundays and holidays, after the entry of the importing vessel or report of the vehicle, or after the arrival at the port of destination in the case of merchandise transported in bond, unless the collector authorizes in writing a longer time.

(b) PRODUCTION OF CERTIFIED INVOICE.

No merchandise shall be admitted to entry under the provisions of this section without the production of a certified invoice therefor, except that entry may be permitted if—

(1) The collector is satisfied that the failure to produce such invoice is due to causes beyond the control of the person making entry;

(2) Such person makes a verified declaration in writing that he is unable to produce such invoice and (A) files therewith a seller's or shipper's invoice, or (B) if he is not in possession of a seller's or shipper's invoice files therewith a statement of the value, or the price paid, in the form of an invoice; and

(3) Such person gives a bond for the production of such certified invoice within six months.

The Secretary of the Treasury may by regulations provide for such exceptions from the re-

quirements of this subdivision as he deems advisable.

(c) PRODUCTION OF BILL OF LADING.

The consignee shall produce the bill of lading at the time of making entry, except that—

(1) If the collector is satisfied that no bill of lading has been issued, the shipping receipt or other evidence satisfactory to the collector may be accepted in lieu thereof;

(2) The collector is authorized to permit entry and to release merchandise from customs custody without the production of the bill of lading if the person making such entry gives a bond satisfactory to the collector, in a sum equal to not less than one and one-half times the invoice value of the merchandise, to produce such bill of lading, to relieve the collector of all liability, to indemnify the collector against loss, to defend every action brought upon a claim for loss or damage, by reason of such release from customs custody or a failure to produce such bill of lading and to entitle any person injured by reason of such release from customs custody to sue on such bond in his own name, without making the collector a party thereto. Any person so injured by such release may sue on such bond to recover any damages so sustained by him; and

(3) The provisions of this subdivision shall not apply in the case of an entry under subdivision (h) or (i) of this section (relating to entry on carrier's certificate and on duplicate bill of lading, respectively).

(d) SIGNING AND CONTENTS.

Such entry shall be signed by the consignee, or his agent, and shall set forth such facts in regard to the importation as the Secretary of the Treasury may require for the purpose of assessing duties and to secure a proper examination, inspection, appraisement, and liquidation, and shall be accompanied by such invoices, bills of lading, certificates, and documents as are required by law and regulations promulgated thereunder.

(e) STATISTICAL ENUMERATION.

The Secretary of the Treasury, the Secretary of Commerce, and the Chairman of the United States Tariff Commission are authorized and directed to establish from time to time for statistical purposes an enumeration of articles in such detail as in their judgment may be necessary, comprehending all merchandise imported into the United States, and as a part of the entry there shall be attached thereto or included therein an accurate statement specifying, in terms of such detailed enumeration, the kinds and quantities of all merchandise imported and the value of the total quantity of each kind of article.

(f) PACKAGES INCLUDED.

If any of the certificates or documents necessary to make entry of any part of merchandise arriving on one vessel or vehicle and consigned to one consignee have not arrived, such part may be entered subsequently, and notation of the packages or cases to be omitted from the original entry shall be made thereon. One or more pack-

ages arriving on one vessel or vehicle addressed for delivery to one person and imported in another package containing packages addressed for delivery to other persons may be separately entered, under such rules and regulations as the Secretary of the Treasury may prescribe. All other merchandise arriving on one vessel or vehicle and conigned to one consignee shall be included in one entry, unless the Secretary of the Treasury shall authorize the inclusion of portions of such merchandise in separate entries under such rules and regulations as he may prescribe.

(g) STATEMENT OF COST OF PRODUCTION.

Under such regulations as the Secretary of the Treasury may prescribe, the collector or the appraiser may require a verified statement from the manufacturer or producer showing the cost of production of the imported merchandise, when necessary to the appraisement of such merchandise.

(h) ENTRY ON CARRIER'S CERTIFICATE.

Any person certified by the carrier bringing the merchandise to the port at which entry is to be made to be the owner or consignee of the merchandise, or an agent of such owner or consignee, may make entry thereof, either in person or by an authorized agent, in the manner and subject to the requirements prescribed in this section (or in regulations promulgated hereunder) in the case of a consignee within the meaning of paragraph (1) of section 483.

(i) ENTRY ON DUPLICATE BILL OF LADING.

Any person may, upon the production of a duplicate bill of lading signed or certified to be genuine by the carrier bringing the merchandise to the port at which entry is to be made, make entry for the merchandise in respect of which such bill of lading is issued, in the manner and subject to the requirements prescribed in this section (or in regulations promulgated hereunder) in the case of a consignee within the meaning of paragraph (1) of section 483, except that such person shall make such entry in his own name.

(j) RELEASE OF MERCHANDISE.

Merchandise shall be released from customs custody only to or upon the order of the carrier by whom the merchandise is brought to the port at which entry is made, except that merchandise in a bonded warehouse shall be released from customs custody only to or upon the order of the proprietor of the warehouse. The collector shall return to the person making entry the bill of lading (if any is produced) with a notation thereon to the effect that entry for such merchandise has been made. The collector shall not be liable to any person in respect of the delivery of merchandise released from customs custody in accordance with the provisions of this section. Where a recovery is had in any suit or proceeding against a collector on account of the release of merchandise from customs custody, in the performance of his official duty, and the court certifies that there was probable cause for such release by the collector, or that he acted under

the directions of the Secretary of the Treasury, or other proper officer of the Government, no execution shall issue against such collector, but the amount so recovered shall, upon final judgment, be paid out of moneys appropriated from the Treasury for that purpose.

19 C.F.R. (1953 Ed.) § 8.3:

Entry required; exceptions. (a) Entry, as required by section 484(a), Tariff Act of 1930, as amended [19 U.S.C. 1484(a)], shall be made of every importation, whether free or dutiable and regardless of value, unless the importation is specifically exempted by statute or regulations from the requirement that it be entered. * * *

19 C.F.R. (1953) Ed.) § 8.6(b):

When merchandise is not imported by a common carrier, possession of the merchandise at the time of arrival in the United States shall be deemed sufficient evidence of the right to make entry.

STATEMENT

Petitioner was charged in count 5 of an indictment returned in the United States District Court for the Western District of Texas with the transportation and concealment, in Travis County, Texas, on or about March 19, 1953, of eight head of Charolaise cattle with knowledge that they had been smuggled from the Republic of Mexico contrary to law, in violation of 18 U.S.C. 545 (*supra*, p. 2) (R. 574, 580-581). It was alleged that petitioner failed to present the cattle to customs officers for inspection as required by 19 U.S.C. 1459 (*supra*, p. 3), and failed to make an entry of such merchandise and to produce

a certified invoice thereof as required by 19 U.S.C. 1484 (supra, p. 4).[1] Counts 6, 7, 8 and 9 were similar to count 5, except for the dates (during March and April 1953) and the number of cattle (ranging from 6 to 11) (R. 581-583). The jury found petitioner guilty under counts 5 through 9 (R. 537).[2] He was sentenced to a fine of $1,500 and concurrent imprisonment terms of 18 months (R. 538-544). On appeal (R. 545-547), the conviction was unanimously affirmed (R. 617).

The pertinent evidence adduced at the trial may be summarized as follows:

In 1952 and 1953, petitioner resided on his father's ranch, extending about 15 miles along the Rio Grande River, at Langtry, Texas, which is about 60 miles west of Del Rio, Texas (R. 347, 438, 422). Petitioner's house was within the vicinity of the La Caretta and La Vibora river crossings, both of which had hard bottoms and could be waded (R. 388, 401, 246).

From January through April 1953, eight truckloads of Charolaise cattle left petitioner's ranchhouse. Petitioner carried the first three loads containing from 8 to 13 head of cattle in his Studebaker truck

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[1] Petitioner's previous conviction had been reversed because of a faulty indictment, not containing these allegations. See *Babb* v. *United States*, 218 F. 2d 538 (C.A. 5).

[2] Under these counts, the government elected to proceed under 19 U.S.C. 1484 and abandoned reliance upon 19 U.S.C. 1459 (R. 492-493). Count 1 on conspiracy had been dismissed, and the court directed a verdict of acquittal under counts 2, 3, and 4 since the government failed to prove transportation in Travis County as alleged (R. 491).

to a point near Ozona, Texas. There, after dark, the cattle were transferred to a truck driven by one Coble, for transportation to the Broussard ranch near Kaplan, Louisiana (R. 92-93, 96-102, 273-275).

After the disablement of petitioner's truck (R. 276), the next five loads of cattle were driven from petitioner's ranch to the Broussard ranch by driver Gibson, an employee of Coble. The trips were made at night, and petitioner went along so that he could take care of the cattle en route (R. 106-115, 118-125, 438). The truck was boarded to conceal the cattle from view (R. 81). Petitioner did not tell Gibson that the cattle had come from Mexico, but said they were from Alpine, Texas (R. 449). Petitioner carried a false truck manifest for the cattle, to be used in meetings with weights-and-measure men or highway officers (R. 136-138, 511, 397-399).

The cattle were brought into the United States from the ranch of Henry Gilly at Pueblo, Mexico (R. 64-66, 82). No customs entry was made during 1952 and 1953 for the Charolaise cattle at any port of entry from Del Rio to El Paso, Texas (R. 147, 149-150, 169-170). The cattle were very valuable, $52,500 having been paid for three of the bulls (R. 70).

One group of 31 or 32 head of the cattle had been on the land of Rudolfo Berrain in Villa Acuna, Mexico (R. 266). This herd was transported in three loads to La Vibora crossing by Alejandro Trevino, shortly before petitioner carried the first three loads to Ozona in his truck (R. 188, 192-194). Trevino would arrive around midnight at the river crossing,

where petitioner and Mexican cowboys would drive the cattle across the river to Texas (R. 188, 190-195).

As to the other five loads of cattle, some were brought north from Mexico to the Rio Grande River. On April 22, 1953 (two days prior to the offense alleged in count 9), several Mexican forest rangers saw the petitioner and two truck loads of white cattle at the El Conejo station in Mexico (R. 209-213, 232-233, 237, 462-463).

Petitioner testified that in November or December 1952 he met Gilly and Broussard at Langtry; that he had met Gilly once before, but was introduced to Broussard for the first time (R. 348, 270, 379-380); that Gilly stated that he was going to import from Mexico some cattle upon which the duty had been paid, and that he wanted petitioner to receive and take care of them for an indefinite time at his ranch (R. 350, 382, 390, 271); that petitioner agreed to haul the cattle on his truck and to deliver them to Broussard (R. 416, 382, 383); that he did not inquire from where in Mexico the cattle were coming or how they were being brought into the United States (R. 390-393); that he had heard various rumors about smuggling operations on the river, but relied upon Gilly's statement that the import duty would be paid and the regulations complied with (R. 400); and that he had no suspicion concerning the transaction despite the large amounts of money he was being paid for "not too much work" (R. 402-403, 279). In all, petitioner received about $12,500 for caring for the cattle and assisting in their transportation (R. 278, 279, 351, 381).

According to petitioner's testimony, he would receive a telephone call from Gilly in Mexico or Del Rio, advising that the cattle were to be brought in, and petitioner would then go to his ranch (R. 352, 353, 359-360, 365). The cattle would either be in his pen when he arrived, or several unidentified Mexicans would drive them into the pen at night (R. 360, 354-355, 365-366). Petitioner stated that he did not consider the delivery of these cattle by strange Mexicans out of order, but that he had never had this same experience, either before or since that transaction (R. 393-394).

ARGUMENT

1. Petitioner contends that he cannot be convicted under 18 U.S.C. 545 (*supra*, p. 2) for failure to make an entry and to submit an invoice for the cattle to the Collector of Customs as required by 19 U.S.C. 1484 (supra, p. 4). It is said that these failures are not "contrary to law" within the meaning of 18 U.S.C. 545 since there is no express statutory penalty for noncompliance with the provisions of 19 U.S.C. 1484 (Pet. 8-11).

There is, however, no reasonable basis for reading into 18 U.S.C. 545 a provision that "contrary to law" refers only to a law carrying its own penalty. To do so would make the unlawful act subject to a double penalty, one under its own terms, and one under 18 U.S.C. 545. The natural and obvious meaning of "contrary to law" in 18 U.S.C. 545 is that it refers to any law in force at the time of the smuggling violation, regardless of whether such law carries its own penalty. Cf. *Goldberg* v. *United States*, 277 Fed. 211,

217 (C.A. 8). Petitioner's failures to make an entry and submit an invoice for the cattle were violative of 19 U.S.C. 1484, and thus "contrary to law." Under *Keck* v. *United States*, 172 U.S. 434, 437, the words "contrary to law" in 18 U.S.C. 545 must refer to provisions not found in that section itself; this requirement was met here by proof of violation of 19 U.S.C. 1484.

Petitioner's reliance upon *United States* v. *Eaton*, 144 U. S. 677, is misplaced. Indeed, the implications of that decision are directly opposed to petitioner's position. *Eaton* involved the regulation of manufacturers and dealers in oleomargarine under 24 Stat. 209. Section 18 of the regulatory statute imposed criminal penalties for wilful failure to do "any of the things required by law." Section 5 imposed certain record-keeping requirements on *manufacturers* of oleomargarine. At the time Eaton, a *wholesaler*, committed his alleged acts, Congress had made no similar requirement in relation to wholesalers (though it subsequently amended the statute to cover record-keeping by wholesalers). The neglect of law charged to Eaton was a failure to comply with an administrative regulation imposing upon wholesalers requirements similar to those imposed upon manufacturers by Section 5. On these facts, the Court concluded that failure to comply with the administrative regulation did not constitute the kind of law violation which Congress contemplated in its enactment of Section 18. The opinion leaves little doubt that a manufacturer's failure to comply with a statutory provision such as that imposed by Section 5 (which, itself, contained no

penalty provision) would have constituted a noncompliance with law bringing into play the sanctions of Section 18.[3]

2. In its charge to the jury, the court refused to give three of petitioner's requested instructions defining "consignee" (R. 531-533), and instructed as follows (R. 497):

> You are instructed that by the word "consignee" as used in this charge and in the indictment is meant a person connected with the unlawful importation, if said importation was unlawful, to whom, under the contract of shipment or sale, if there was a sale, the merchandise was to be delivered, who knowingly and wilfully received such merchandise, knowing that it had been unlawfully imported and that he owed the duty to make the entry.

Petitioner argues that his requested instructions (R. 531-533), following substantially the language of 19 U.S.C. 1483(1) (*supra*, p. 4), should have been given instead (Pet. 12-13). In effect, petitioner contends that without a bill of lading (absent here) he could not be deemed a consignee, there being no evidence that he was the seller, buyer or holder of an ownership interest in the cattle.

A bill of lading is not, however, a prerequisite to the status of consignee. The clear implication of 19 U.S.C. 1483(1) is that "All merchandise imported into the United States" has a consignee, not only such

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[3] For a recent discussion of the *Eaton* case, see *United States* v. *Howard*, 352 U. S. 212, 215-217. Compare *United States* v. *Hvass*, 355 U. S. 570; *Caha* v. *United States*, 152 U.S. 211.

merchandise as is covered by bills of lading. Moreover, 19 U.S.C. 1484(c) states:

> (c) The consignee shall produce the bill of lading at the time of making entry, except that—
>
> (1) If the collector is satisfied that no bill of lading has been issued, the shipping receipt or other evidence satisfactory to the collector may be accepted in lieu thereof;
>
> * * * *

Petitioner's possession of the cattle was such "other evidence" that he was the consignee thereof for purposes of making a customs entry under 19 C.F.R. (1953 Ed.) § 8.6(b) (*supra*. p. 10).

Accordingly, the court's instruction (R. 497), which did not require a showing that there was a bill of lading as a prerequisite for a finding that petitioner was a consignee obliged to make a customs entry, was correct. Even under petitioner's theory that Broussard was the only consignee, the jury could have properly found petitioner guilty as an aider and abettor under the court's charge upon this subject (R. 494-495).

3. Petitioner contends that there was no violation of 19 U.S.C. 1484 providing for entry of merchandise by a consignee, on the ground that this statute is expressly limited to importations by "vessel" or "vehicle" (Pet. 13-15). The contention is without substance.

Under 19 U.S.C. 1484(a), with the exceptions noted in the first sentence (not applicable here), a duty is imposed upon each consignee or his agent to make a customs entry of all imported merchandise. As indicated by its title, the second sentence of the

statute merely designates the time for making the entry for merchandise brought in by vessel or vehicle; it does not provide or imply that an entry is required only for merchandise imported by vessel or vehicle.

It is not a reasonable inference that Congress intended to relieve persons carrying merchandise and walking across a bridge from Mexico to the United States, or driving cattle on foot across the river, of the obligation to make a customs entry merely because they did not transport the merchandise in a vehicle. 19 C.F.R. (1953 Ed.) § 8.3 (*supra*, p. 10) correctly interprets 19 U.S.C. 1484(a) to require an entry for "every importation, whether free or dutiable and regardless of value, unless the importation is specifically exempted by statute or regulations from the requirement that it be entered."[4] Accordingly, petitioner was required to make the customs entry for the imported cattle.

4. Finally, petitioner contends that the court erred in giving an inadequate charge as to his required knowledge of the provisions of the specific law with which he allegedly failed to comply (Pet. 15-17).

The court charged as follows with respect to intent (R. 497-498):

> You are further instructed that the intent involved in the offenses charged in the several counts of the indictment in this case are not

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[4] The court below properly found no controlling significance in the fact that 19 U.S.C. 1484 was not amended by the same language as the 1938 amendment to 19 U.S.C. 1459 and 1460, making them applicable to persons importing or bringing in merchandise from a contiguous country "otherwise than in a vessel or vehicle," as well as to importers using a vessel or vehicle (see R. 610; Pet. App. 38).

> inherent in the acts themselves, but it is a specific intent involving a bad motive, and the specific intent on the part of the defendant to commit the acts charged in counts five through nine of the indictment. In order for you to convict the defendant Babb of the offenses charged in said counts five through nine of the indictment in this case, you must first find beyond a reasonable doubt that he actually wilfully and knowingly was consignee of said merchandise alleged to have been imported in violation of the law, and that he failed to make entry thereof either in person or by an agent authorized by him in writing under the regulations prescribed by the Secretary of the Treasury, and that he knew that no one else authorized to do so had made such entry. It is not enough that he should have had suspicions or that he should have had reasonable grounds to believe that the entry on said cattle involved in this case was not duly made; but you must find from all of the evidence in this case that the defendant Babb actually knew that no entry had been made either by him or by any other authorized person.

Petitioner's counsel objected to the charge on intent in this language (R. 488):

> The defendant objects to the Court's charge with reference to specific intent and knowledge, because the Court requires the jury to find only that the cattle involved in this case were imported into this country in violation of some law, and the Court should require the jury to find that the defendant knew they were brought into this country in violation of some specific law. In addition, the Court should charge that the

> jury must find that the defendant actually knew the provisions of the specific law contrary to which it is alleged that the cattle were imported. In other words, it should allege that he knew he was supposed to make an entry and that he knew he was required to present them for inspection.

The court's charge did require knowledge by petitioner of his duty to make the customs entry for the imported cattle. Under the charge, the Government had to show that petitioner knew he was a "consignee" and that he knowingly[5] received the merchandise aware that it had been unlawfully imported and that he "owed the duty to make the entry" (R. 497). To warrant conviction the jury had to find that petitioner "wilfully and knowingly was consignee" of the cattle, and that he "actually knew that no entry had been made either by him or by any other authorized person" (R. 498, 503). It was unnecessary to cite 19 U.S.C. 1484[6] in the part of the charge requiring knowledge of the duty to make the entry, since the substance of the statutory requirement was plainly stated.

The two cases upon which petitioner relies, *Hargrove* v. *United States*, 67 F. 2d 820 (C.A. 5), and *Yarborough* v. *United States*, 230 F. 2d 56 (C.A. 4), stand for the proposition that ignorance of a duty

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[5] "Knowingly" had been defined in a previous part of the charge (R. 496) as meaning that petitioner had committed the acts charged with "full knowledge" of all essential elements of the offense, including knowledge that it was wrong.

[6] 19 U.S.C. 1484 had been referred to in a previous part of the charge describing the offenses alleged (R. 492, 493, 494).

imposed by law may negative wilfulness in failure to perform a statutory duty. The court's charge was entirely in accord. If the jury had found that petitioner was ignorant of his statutory obligation to make an entry for the cattle, he would have been acquitted.

CONCLUSION

For the reasons stated, it is respectfully submitted that the petition for a writ of certiorari should be denied.

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MAY 1958

U. S. GOVERNMENT PRINTING OFFICE 1958 465359 1466